



# NEWSLINE

*An Official Publication of the Tennessee Auctioneer Commission  
Tennessee Department of Commerce and Insurance*



## Chairman's Report

by Howard Phillips

The General Assembly passed a bill to amend Tennessee Code Annotated 62-19-102. The bill authorizes an apprentice auctioneer who is also a broker or affiliate broker to conduct or offer to conduct auctions of real property as long as the auctioneer for whom the apprentice auctioneer is employed for such purposes, is on the premises of the property being auctioned during the auction. The TAC urges apprentice auctioneers and auctioneers to make sure they comply with this change in the law. Now apprentice auctioneers can legally gain experience in calling bids at real estate auctions.

The TAC asked representatives of the Tennessee Real Estate Commission to come to the June Commission meeting and explain a fine levied on an Auctioneer by the TREC. Mr. Bruce Lynn and Mr. Wayne Pugh appeared and explained an auctioneer had been employed to sell real estate that was a part of an estate "in tracts and the tracts were to be sold by the tract, in order." The auctioneer changed the procedure on the auction day to allow high bidders to have first choice of tracts. The TREC was concerned about enforcing the terms of a real estate employment contract. This was the basis of the fine and the TAC concurred.

For our Licensees that are also real estate brokers, the Tennessee Real Estate Commission has modified its continuing education requirements to include real estate brokers licensed after 1/1/05. Brokers licensed after 1/1/05 will be required to obtain 16 hours of continuing education every renewal period.

Complaints addressed during our June meeting dealt with violations by apprentices and their sponsors. One complaint found the apprentice exclusively signing an auction contract. The apprentice may sign an auction contract but it MUST be signed by the sponsor that is supervising the apprentice. Other action found a licensed auctioneer allowing an unlicensed person to call bids at an auction. Several complaints that were brought to the TAC dealt with unhappy buyers and sellers. Most of these complaints were found to be outside the scope of the jurisdiction of the TAC.

The TAC continues to conserve funds and find ways to live within our budget. The Commission travel has been limited and we are not funding any new programs. We continue to provide the free seminar programs and this newsletter for the benefit of the licensees. We

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## COMMISSION MEMBERS AND STAFF

### Howard Phillips, Chairman

Term 11/30/00 - 8/31/03

### Terri Walker, Board Member

Term 9/1/02 - 8/31/05

### Jay Whirley, Board Member

Term 9/1/01 - 8/31/04

### Charles Woodard, Board Member

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## MISSION STATEMENT:

The mission of the Tennessee Auctioneer Commission is to protect the public and licensees by monitoring the auctioneer profession through licensure and regulation.

## Vision:

To remain a premier regulatory board operating at maximum efficiency, providing exemplary consumer protection and enhanced quality improvement for licensees while recognizing that these are changing times and that the nature of professional services must change accordingly and so should we as regulators.

## Frequently Asked Questions

The following questions have been submitted by licensees attending the TAC Seminar Programs.

**1. Why do Auction Firms have to display their license number on advertising?**

*Answer:* Rule 0160-1-20 (1) states "Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the auction firm or gallery responsible for holding the sale." The firm license number provides a direct reference to the Firm that can be searched in the TAC data base if a complaint is filed against a firm. Auctioneers belonging to the firm are listed on the firm license.

**2. I do not use the exact same Firm Name on my advertising that is printed on my license. Can I legally do this?**

*Answer:* No. The Firm Name that appears on your ad must match the Firm Name on your license.

**3. Do I have to place my Firm License number on all advertising?**

*Answer:* No. Promotional items that are produced to solicit business do not have to have the firm license number. The number is required on advertising designed to give notice of an upcoming auction. This includes signs, newspaper ads, brochures, radio ads, and any other sale promotional items.

**4. Who is required to take continuing education each renewal period?**

*Answer:* All of those persons licensed after January 1, 1985 are required to obtain six hours of continuing education each renewal period. Those acquiring a license before January 1, 1985 are exempt. An Auctioneer who has reached sixty (60) years of age and has been licensed as an auctioneer for ten (10) years or longer is exempt. No apprentice is exempt from continuing education requirements.

**5. Why are license renewals staggered instead of all licenses being due at the same time?**

*Answer:* The TAC has always operated with a staff of no more than three (3) persons. Staggering the licenses renewals allows the staff to deal with only 250 renewals a month instead of 3,000 at one time. It provides for the prompt renewal of licenses and maximizes staff time.

**6. Why am I not getting the TAC newsletter and the postcard announcements?**

*Answer:* One of two reasons. First, your address may be wrong on the TAC's records. Second, your mail goes to your business address and if you do not check in with your firm from time to time, it may be discarded. The current computer system will not allow for an address for your business and an alternate mailing address. The newsletter and postcards are sent to those that appear in the TAC database. Check your address first to make sure it is accurate. Next, have a talk with the firm owner to work out a system to receive your TAC publications.

**7. If I hold an Auctioneer License, does that allow me to legally sell any type of personal property?**

*Answer:* Yes. Auctioneer license holders may sell any type of personal property of any value. However, there is a responsibility of the Auctioneer to be competent and knowledgeable about the personal property he or she offers to the public.

**8. I saw in the last newsletter that an Apprentice cannot call bids at a real estate auction. Has that changed?**

*Answer:* TCA 62-19-102. (2b) says "All auctions (implied real estate) arranged by or through a firm shall be conducted exclusively by individuals who are licensed as auctioneers under this chapter." The TAC interpreted this to mean "auctioneers must call the bids at all real estate auctions."

### Congratulations...

To Howard Phillips on his reappointment to another three years on the Tennessee Auctioneer Commission Board.

## Disciplinary Corner

by Dennis Hodges

Whitco Real Estate & Auction Co. - \$100.00; Agreed Citation; Improper Advertisement - ad contained the firm number but did not contain the name as required by rule 0160-1-.20(1)

TN Auto Auction (Manheims' d/b/a) - \$100.00; Agreed Citation Improper Advertisement - internet home page advertisement of auctions and upcoming auctions did not contain the auction firm license number as required by rule 0160-1-.20(1)

Terry Whitson Rlty & Auction Co. - \$100.00; Agreed Citation Improper Advertisement - ad contained the firm number but did not contain the name as required by rule 0160-1-.20(1)

Superior Auction & Flea Market - \$100.00; Agreed Citation Improper Advertisement - ad contained the firm name but did not contain the number as required by rule 0160-1-.20(1)

Nashville Auto Auction - \$100.00; Agreed Citation; Improper Advertisement - internet home page advertisement of auctions and upcoming auctions did not contain the auction firm license number as required by rule 0160-1-.20(1)

ABC Nashville, LLC - \$100.00; Agreed Citation; Improper Advertisement - internet home page advertisement of auctions and upcoming auctions did not contain the correct auction firm license number as required by rule 0160-1-.20(1)

Cincinnati Industrial Auctioneers - \$200.00; Agreed Citation Improper Advertisement - ad contained the firm name but did not contain the correct number; also the website did not contain firm license number as required by rule 0160-1-.20(1)

Southeast Horse Sales - \$100.00; Agreed Citation; Improper Advertisement - ad failed to contain the Gallery number as required by rule 0160-1-.20(1)

Tranzon Durnil Auctioneers - \$600.00; Agreed Citation The advertisement failed to contain Respondent's auction firm license number as required by Rule 0160-1-.20(1); The Respondent's advertisement also failed to give notice of a buyer's premium that was to be charged as required by rule 0160-1-.21(1)

### Are Your Records Correct?

The TAC office still receives large quantities of returned mail, most of which are of apprentices and firms.

To avoid accumulating more penalties, please contact the Commission for any corrections or changes that may need to be made.



### Chairman's Report (continued from page 1)

applaud the actions of Governor Bredsen to curb spending and avoid new taxes. Tennessee is doing a good job of holding the line on spending in light of all the financial problems faced by our sister states. The TAC will continue to monitor how your fees are spent and look for ways to conserve.

The TAC Board has also voted to change the procedure of our regular meetings. Effective with the next scheduled Board date, the meeting will begin with a prayer and the Pledge of Allegiance.

Let's liven it up! Something new is coming to our quarterly newsletter. Beginning with the September 2003 issue, auctioneers will have a chance to tell us about one auction they have had during that quarter. It may be your best or worst, your most embarrassing or most rewarding. Auctioneers can learn from one another and your experiences.

Your stories may be emailed to [annevans@netease.net](mailto:annevans@netease.net) or faxed to 931-593-3748. Stories will be picked at random and may be modified or clarified in order to fit the space allotted.

- Howard Phillips, TAC Chairman

### Be Prepared...

The investigator does unannounced on-site audits of firm auction records. These records should be made available to him at the time of his visit.

### Your Responsibility is Showing!

Despite the citations, write-ups, and complaints we still have auctioneers and apprentice auctioneers (some without their sponsor present) call bids for unlicensed businesses. If you are contacted to conduct an auction, you have the responsibility to ask about licenses, (i.e., whose firm is it? Is the license current? Who is the principle auctioneer?)

Remember that it is the firm that is hired and not the auctioneer. The auctioneer works for the firm and all paper work (escrow, contracts, consignments) is negotiated and signed by an auctioneer who is a member of that firm.

Just taking a moment and asking these simple questions may mean the difference between a good productive auction, and difficult situations and/or complications.



## June 10th Seminar Pics



Thanks to Dale Bowlin and Tommy Bowlin,  
high bidders for the St. Jude's tie.



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